

**BROADENING ADMINISTRATIVE JURISDICTION  
AND ECCLESIASTIC SELF-GOVERNMENT:  
EVIDENCE FROM THE ROMANIAN MODERN INSTITUTIONAL  
SETTLEMENTS IN THE XIX<sup>TH</sup> CENTURY**

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**Abstract**

The present article aims to decrypt the analytical way in which the administrative changes and ecclesiastic self-government accompanied the modernization of the Romanian Orthodox Church in the XIX<sup>th</sup> century. The analysis presents the modern trends of the innovative legal ideas defining the role of ecclesiastic provisions, the functions and the needs of the priesthood, the duties of the Holy Synod of the Romanian Orthodox Church in what was called the struggle for the national ideals. In all these debates, the relationship between the needs of the church and the social and political choices reflected their ability to adapt to the new demands of the modern development of Romania. Furthermore, the formation of Romania was reflected in the administrative changes and self-government of the clergy and its ability to polarize the institutional structure dedicated itself to the fulfillment of these ideals.

**Key words:** *Administration, Ecclesiastic Self-Government, Romania, Church, Legislation*

**Introduction**

During the nineteenth century, the modern settlements of the ecclesiastic government, here including the self-administration approach and the respect of the principles of tolerance and religious choice organized the Orthodox Church as a state institution. Throughout the history of the Romanian people, especially with the adoption of the *Interior Regulation of the Holy Synod of the Holy Autocephalous Romanian Orthodox Church*<sup>1</sup>, the Romanian Orthodox Church become the guardian of religious traditions, organizing the moral and christian life of the nation, often times called the *National Church*<sup>2</sup>. The Church officials acknowledged the role of the church in preserving national spirit and cultural life throughout the four chapters of the Interior Regulation (hereinafter *Interior Regulation...*).

**Methods and methodology**

This paper initiates an analytical approach designed to contribute to the understanding of the spirituality and legality that customizes the late nineteenth century and early twentieth century, through a reconfiguration of the significance of social and

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<sup>1</sup> *The Interior Regulation of the Holy Synod of the Holy Autocephalous Romanian Orthodox Church*, in "Monitorul Oficial" no. 114, 31 May 1873 (excerpt from *Legea Organică și Regulamentele Sfântului Sinod. Anul 1872-1873*, București, Tipografia Cărților Bisericești, 1884, pp. 15-20).

<sup>2</sup> For a general overview, see Gh. Platon (coord.), *Istoria Românilor*, vol. VII, tom II, București, Editura Enciclopedică, 2003, p. IX.

institutional transformations of the Romanian Orthodox Church and Romanian monarchy<sup>1</sup>. This paper has four objectives polarizing ecclesiastic self-government and administrative changes of the Orthodox Church at mid nineteenth century: 1. to define the tasks of the new legislation on administrative changes, the self-government and the evolution of structural and functional components of the Orthodox Church in the XIX<sup>th</sup> century according to the legal limits of the religious freedom and of the cults guaranteed in Romania modern legal regime<sup>2</sup>; 2. to debate any changes in the doctrine and the worship of the Orthodox Church in the context of the new institutional framework; 3. to focus on the essential aspects of social and cultural emancipation revealed by the new legislation: church reforms, institutionalization of theological thinking, religious thought and self-administration; 4. to decompose the problem of modern settlements of church and its institutional organization.

A reference book, published in 2007 entitled *The Teachings of Modern Orthodox Christianity on Law, Politics, and Human Nature* presents the close connection between the modern Orthodox Tradition, the christian realism and the influence on the intellectual and cultural movement in the modern times. The close connection existing between the Church and nation in the Orthodox Church is founded according to Write and Alexander on the principle that gives to the Orthodox Church a self-administration according to the civil and ecclesiastical law<sup>3</sup>.

A broader interpretation of the modern Orthodox thinking considering that this type of “legality” is distinguished between “tradition and traditions”<sup>4</sup>, as one of the most innovative modern legal provisions of the Romanian Orthodox was the *Interior Regulation...*, a result of administrative changes and ecclesiastic self-government in the Holy Synod administration, organization and functioning in the XIX<sup>th</sup> century. Moreover, the proclamation of the Constitution of 1866 represented the fundamental stage of the Romanian modern settlements, because it was designed to guarantee the freedom of conscience, equality, political rights and individual freedom. Under these arrangements, the freedom of conscience is absolute and the freedom of all cults is guaranteed unless their celebration will not offend the public order or morality (Romanian Constitution 1866, article 21)<sup>5</sup>. This understanding of the freedom of conscience and of cults guides the Constitution into the modern spheres, one spiritual and one social<sup>6</sup>.

The article proposes a new approach that will focus on the modern legislative problems considering the structural and functional modern perspectives. It will also

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<sup>1</sup> Mircea Păcurariu, *Istoria Bisericii Ortodoxe Române*, vol. 3, București, Editura Institutului Biblic și de Misiune al Bisericii Ortodoxe Române, 1981, p. 113. See also Sorin Liviu Damean, *Diplomația românească în timpul domniei lui Carol I – o diplomație de cabinet?*, in “Analele Universității din Craiova. Seria Istorie”, Anul XVII, Nr. 1(21)/2012, p. 74.

<sup>2</sup> See for a comparative approach, Șerban Ionescu, *Morala ortodoxă față cu celelalte morale confesionale*, București, Editura Clerului de Studii Social-Creștine, 1941; Nicolae Boșan, Nicolae Edroiu, Aurel Răduțiu, *Cultură și societate în epoca modernă*, Cluj-Napoca, Editura Dacia, 1990.

<sup>3</sup> John Witte, Frank S. Alexander, *The Teachings of Modern Orthodox Christianity on Law, Politics, and Human Nature*, New York, Columbia University Press, 2007, pp. 15-17.

<sup>4</sup> *Ibidem*.

<sup>5</sup> Romanian Constitution 1866, in “Monitorul Oficial”, no. 142/ June 1, 1866.

<sup>6</sup> Other laws and regulation in the modern period: *Monastic Law* (30 November 1864) and the *Organic Decree creating a central synodal authority* (3 December 1864).

enable the analytical focus on the legislative plan, and the social, cultural and intellectual origins of Orthodox thinking. A particular attention is given to the importance of the civil device, meaning that the ecclesiastic regulations at the end of XIX<sup>th</sup> century<sup>1</sup>.

An important line is also the expected consequences of the *Interior Regulation...* research using content analysis most frequently applied to issues of judicial decisions and organizing approaches in terms of the so-called “judicial policy making” represented by the intersection of the judicial and religious perspectives. In this context, the fundamental element of the research on legality and internal procedure of the church is *the recognition of ecclesiastic self-government and administrative jurisdiction* lying in its ability to influence legal internal organization and the social institutional norms in accordance with its own traditions and heritage.

The distinguishing mark of the content analysis in the case of the *Interior Regulation...*, in terms of gathering and collecting data is also its ability to analyze how church institutional initiatives (Holy Synod) promote both tradition and innovation. Although legal details at micro-level and traditional resources are interlinked and the general framework of the relations between state and church provides the stimulus for modernizing Orthodox Church as a solid basis for the emergence of a critical approach on institutional changes in modern times. The traditional perspective governing the formulation of the *Interior Regulation...* in the organization of the Holy Synod has a decisive effect on the understanding of the social and cultural role of religion in that period.

Recently, historians, academics and researchers have explored the conditions, sources, resources methods and techniques of the transmission of historical heritage in modern times in a variety of areas linking the valorisation of historical and cultural traditions and the various forms of developing and progressing across people, institutions and generations. Similarly, the proposal content analysis method is considered as a solution for analyzing and researching *Interior Regulation...*, taking several indicators simultaneously such: the structure of the *Interior Regulation...*, the number of regulation articles, the main legal provisions, the social and ecclesiastic consequences allowing multidisciplinary research on the interaction legal-religious, administrative-ecclesiastic, social-religious in the conditions of the modern period. Under these circumstances, the two-level scheme of content analysis influencing legal and ecclesiastical decisions is a useful interpretative device, assuming that the state-church approach is presumed to constitutional guarantee of freedom of conscience, freedom of cults and the other political and diplomatic approaches of the period here including the foreign relations of the Romanian state<sup>2</sup>. This assumption provides the legal basis of the *Interior Regulation...* in the context of the constitutional framework (1866) and the legal relations between state and other cults<sup>3</sup>.

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<sup>1</sup> Dan Berindei (coord.), *Istoria Românilor*, vol. VII, tom I, București, Editura Enciclopedică, 2003, p. 485.

<sup>2</sup> For a historical and political perspectives on the issue see Ionuț Șerban, *Romania and Italy between 1879 and 1887*, in “Analele Universității din Craiova. Seria Istorie”, Anul XIV, Nr. 2(16)/2009, pp. 197-216.

<sup>3</sup> For a particular overview on the historical basis of the new ecclesiastical changes see I. Lupaș, *Istoria Bisericii Ortodoxe Române*, București, Editura Socec & Co., 1929, p. 186; M. Savel, *Domnia marelui domnitor Alexandru Ioan I Cuza și epoca glorioasă a românilor*, Bacău, Tipografia Progresul, 1909, p. 45.

Providing a new organizational scheme of church internal regulation, the present legal content analysis offers one of the few research approaches to Orthodox Church internal organizing perspectives in the XIX<sup>th</sup> century.

### **Regulation's influence and legacy**

The first Chapter of the Regulation is entitled *Session of the Holy Synod* and it includes three articles broadly based on the opening of the Holy Synod, the particularities of the religious order, the duration of the sessions, the organization and themes of the debates. Article 2 of the *Interior Regulation...* provides a particular attention to the inaugural "speech about the needs of the church, to which attention Holy Synod" is delivered by the archbishop. The second chapter of the *Interior Regulation...* is entitled *About office and its functions, and the administration of the Holy Synod* and it describes the duties of the President of the Holy Synod consisting of: the maintenance of order in the meetings of the Holy Synod, the supervision and the strict observance of rules, and the right to waive the meeting when any speaker would deviate from the subject of discussion (article 4). Given the fact that the chapter provides an innovative outline of the ecclesiastic hierarchy, articles 5 and 6 recognize the institutional position of the President of the Holy Synod and the voting procedures as follows: "The President has the right to speak in the debate to recall the speaker in order ... to enlighten the debate" (article 5) and "at the beginning of each session, the Holy Synod elects by secret ballot two secretaries" (article 6). Furthermore, articles 7-9 determine and safeguard the functioning harmony of the Holy Synod within the community by extending the principle of subsidiarity which strengthens the hierarchical order. The same articles avoid the arbitrary exercise of the authority within the internal organization of the Holy Synod by establishing a system of self-administration and ecclesiastical jurisdiction in terms of authority, ecclesiastic staff, sessions, documents and debates.

All of these principles have a direct influence and consequences on the protection of regulations and documents in the systematic structure of the *Internal Regulation...* The principle of subsidiarity and self-administration become important for the interpretation and application of ecclesiastic norms of the Orthodox Church and the understanding of the new jurisdiction and self-administration. At the time of the adoption of the regulation, the arguments of administrative jurisdiction and self-government were seriously advanced taking advantage of the hierarchical order approaches and extents concerning the Romanian modern settlements in the XIX<sup>th</sup> century. In fitting together all the provisions of the jurisdiction, administration and self-government, the first two chapters of the *Internal Regulation...* as it relates to the modern settlements approaches, the legal background focus on the interpretation by which, for reasons of social and civic order, historical background comes into focus.

The great developments of the Romanian society during the modern settlements of the XIX<sup>th</sup> century indicate the developments that can be expected of it in terms of ecclesiastical jurisdiction<sup>1</sup>. Unlike the civil provisions of the second half of the XIX<sup>th</sup>

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<sup>1</sup> For a comparative perspective on other cults see Hugh McLeod, Werner Ustorf, *The Decline of Christendom in Western Europe, 1750-2000*, Cambridge, Cambridge University Press, 2004, pp. 1-3; Robert F. Cochran, Jr., *Christian Traditions, Culture and Law*, in Michael W. McConnell et al., *Christian Perspectives on Legal Thought*, New Haven, Yale University Press, 2001, pp. 242-252.

century which are more causal and detailed, the provisions of the Orthodox Church established by the Holy Synod involve some interpretations of its new judicial concept of administration.

Anticipating the problems of interpretation and jurisdiction, Chapter III entitled *About Hearing* provides in article 10 that the “Holy Synod meetings are not public”. The legal system of the Church according to the new legal provisions is one of self-administration, jurisdiction and supremacy which requires that the “summaries of the minutes of the Holy Synod of the Church will be published in the journal or in its absence the Official Gazette” (article 10). Such legal provisions of the regulation simplify the hierarchical order confirming the interpretive directions of the article 9 and 10. However, it should be noted that under the new legal provisions, the modern legal settlements of the Orthodox Church intend to uphold the moral and ethic orientation of the ecclesiastical institutions at the end of the XIX<sup>th</sup> century. The regulation makes concessions to historical institutionalism<sup>1</sup>, through a decisive interpretation of its jurisdiction regarding the “order of the day” established by the President of the Holy Synod. Therefore, the status of the Church was improved regarding “the matter of urgency” of the debates themes (articles 11 and 12). The status of the meeting and the order of the day have also been improved by the affirmation of the “majority vote of the Holy Synod”. The specific view of the article 13 seems to be that the new regulation is a moderately innovative provision, designed to exercise its authority within the modern mandate to serve the community<sup>2</sup>.

The article 12 specifies that the “order of the day will be fixed by the President of the Holy Synod; it cannot be changed except by a majority vote of the Holy Synod, in the matter of urgency” and article 13 describes that “the Holy Synod meetings begin at 11 am this morning. In case of need the Holy Synod may set another time, which in this case will be communicated to all members and the Minister of Religious Affairs”. However, in the secular structure of self-government of the church, the first three article of the Chapter III suggest that both the canonic law and natural law are founded on the law principles and administration improvement.

Of particular interest, articles 14-16 influence upon self-administration in modern settlements showing how the new regulations design a well-structured hierarchical administration and demonstrating best ecclesiastical reforms and practice approaches. As described in article 14, “the Holy Synod will hold its meetings every day except Sundays and holidays, or when the President will announce that they are prepared and entered on the agenda”. The administration jurisdiction of the Church is a modern form assembling the church-administration divide by-passing organizational capacity of reform and tradition.

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<sup>1</sup> See for a comparative perspective of institutional change within the European integration context Cătălina Maria Georgescu, *Europeanization Imagology, Historical Institutionalism and Integration: Comparative Politics of Institutional Change in Governance*, in “Revista de Științe Politice. Revue des Sciences Politiques”, no. 43/2014, Craiova, Universitaria Publishing House, 2014, pp. 237-251.

<sup>2</sup> The same situation considered in the case of the legitimacy of the ecclesiastical law was developed by Nicodem Mițaș, *Dreptul Bisericesc Oriental* (translation by Dim. I. Cornilescu and Vasile S. Radu, revised by I. Mihălcescu), București, Tipografia “Gutenberg”, Joseph Göbl, 1915, p. 551; Nicolae Popovici, *Manual de drept bisericesc ortodox oriental cu privire specială la dreptul particular al Bisericii Ortodoxe Române*, vol. I, part I and II, Arad, Tiparul Tipografiei Diecezane Ortodoxe Române, 1926, p. 251.

The new *Internal Regulation...* is devoted to a full understanding and solidarity between Church self-administration and State modern legislation and organization ensuring the legal value of the new procedures concerning: the dominant position of the Orthodox Church in the modern state, the church-state relations and the evolution of the Orthodox Church doctrine here including the provisions of the following articles: article 15 – the opening of the meetings and the legal number of members present; article 16 – the voting procedure; article 17 – the order of the day; article 18 – the order of speaking regulated as follows: “No member may speak until asked and received word from the president. Each member is allowed to change to another turn to talk”; article 19 – other rights and permissions during the debates as follows: “No member shall speak more than twice on the same issue, without the permission of the Holy Synod, found and expressed by the President”; article 20 – special measures regarding the debates of the sessions as follows: “It is always open to talk to each member keeping rules for personal matter, or to explain the meaning of his words, but in these cases can only speak once” and article 23 – other procedures concerning the order of speaking during the debates: “No one shall be interrupted when speaking, but only by the President, for the observance of rules and calling the matter”<sup>1</sup>.

Without ignoring other legal provisions in the same century, it is important to focus on the legal interpretations of the articles 24-28. Therefore, we have to highlight the institutional development of the Church introduced by this regulation inside and outside of the ecclesiastic institutions as considering: article 24 – debate agenda and observance of regulations; article 26 – the issue of delay or amendments put to the vote before the main proposal.

It is interesting that at the time of the adoption of the regulation, at the European level in the mid nineteenth century, we are witnessing the formation of a new theological literature and legislation precisely influenced by a sort of scientific discourse combining traditional authority and the emergence of modern developments as follows: article 27 – the communication procedures and the report of the Holy Synod and article 28 – the closing provisions of the sessions.

Chapter IV of the regulation entitled *About Committees and Voting* presents the structure of the voting procedure identifying a broad set of fundamental values considered as “needed” in making ecclesiastic decisions here including: the preparatory projects (article 29), the election of a Committee of the Holy Synod composed of three members in charge with verifying all projects (articles 29-30), the functioning of the Holy Synod Office (article 30), the procedure of addressing petitions to the Holy Synod (article 30); the decision process (article 31); the report for each subject and the necessary explanations in the subject case (article 32); the time period for answering on behalf of the Holy Synod (articles 32-33); the secret of voting (article 35). Under these explanations, the regulation specifies that voting is secret by written tickets or balls (article 35). At the same time, the regulation identifies a broad set of fundamental principles including the role and position of the chairman and secretaries (articles 35-36) and the procedure to validate the vote (article 37). These principles – the careful inspection of voting and the validation is the

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<sup>1</sup> From the above provisions, the issue of religious institutions and the idea of self-government and administrative jurisdictions between canonic law and state legal requirements are enforced by a new conception of the State, ecclesiastic engagement and involvement.

work of the legal principle of transparency. Indeed, article 37 specifically states that the vote “is required to be at least absolute majority, half plus one of the present members”<sup>1</sup>.

### Conclusions

Such content analysis is preferable for acknowledging the legislative changes in the modern period assume the existence of the organizational scheme of the Church considered in the early stages of the modern Romanian state formation and development.

Under the new content analysis, the historical research of the Orthodox Church evolution and the expected conclusions enable the interdependencies between legal research and ecclesiastic activities. In conclusion, this suggests a more efficient interaction between the ecclesiastic research and legal interpretation with various approaches and varying consequences perceived on: the preparatory projects and activities of the Holy Synod, the election of the internal structure; the verification of all projects, the functioning of the Holy Synod – office and committees, the procedure of addressing petitions to the Holy Synod; the decision process and procedure; the report for each project, the necessary explanation in the subject case, and the secret of voting. So the research results show that the analysis of the relationship between administrative changes and ecclesiastical self-government is dependent on periodicity, timing, validity and, durability and legality of the subject cases of the Holy Synod.

In conclusion, it is argued that researching ecclesiastical self-government and administrative approaches deals with interdisciplinary and multi-factural indicators aimed at emphasizing the interest on the internal regulations of the church in the context of modernity and implementing a modern set of state-church institutional settings as each of the four chapters of the regulation develops an analogy of administrative-ecclesiastical approaches and the production of an internal regulation adapted to state conditions.

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<sup>1</sup> From these considerations, it is clearly noticed that the *Internal Regulation...* provides the basis for claims of reform and progress in its historical evolution, making a valuable contribution to the unitary conception of the Romanian state. For a general overview on the consequences of the major political moments at the end of XIX<sup>th</sup> century and the beginning of the XX<sup>th</sup> century see Marusia Cîrstea, *Mica Înțelegere și atașării militare români la Praga și Belgrad*, in “Revista de Științe Politice. Revue des Sciences Politiques”, no. 30-31/2011, Craiova, Universitaria Publishing House, pp. 17-25.

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